

# EXHIBIT 1

## Issues Report [Telcordia v. Cisco (35826.0048)]

## • Jain Selection

[83:15] - [84:1] 12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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15 Q. Are you aware that this case, the  
16 original case against Cisco, was filed in July of  
17 2004?

18 A. I do not know the exact date when the  
19 case was filed.

20 Q. In the time period from July 2004  
21 until today, December 2006, have you been trying to  
22 preserve your emails and documentary records that  
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1 may relate to SRTS?

[84:5] - [84:10] 12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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5 THE WITNESS: Okay. So I think -- I  
6 mean, my answer is, in -- in general, I've not been  
7 trying to preserve anything specific to SRTS or  
8 anything specific to anything -- any other subject  
9 matter; but in general, I know that Cisco has a  
10 backup system.

[93:9] - [93:13] 12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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9 Q. Have you ever conducted a search for  
10 files or emails in connection with this case?

11 A. You mean the Telcordia/Cisco case?

12 Q. Yes.

13 A. Not to my recollection.

[94:1] - [94:19] 12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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1 Q. Okay. But in terms of actions -- and  
2 I'm entitled to that -- you have never actually  
3 looked for, at any time during the pendency of this  
4 case, any emails, any documents, any computer files  
5 you had that may be relevant to this case; is that  
6 true?

7 A. To the best of my memory, no, I have  
8 not looked for any specific files related to this  
9 case.

10 Q. If it were important to you to find  
11 computer files that you authored relating to SRTS,  
12 how would you go about doing that?

13 A. Well, I can tell you how to find  
14 computer files, and not in specific to SRTS because  
15 I don't know or I don't remember if I wrote any  
16 documents specific to SRTS. But Cisco has  
17 databases which contain -- which are supposed to  
18 contain all those documents, and I would look  
19 there.

[94:20] - [95:12] 12/5/2006 Jain, Vipul [ITC]

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20 Q. Okay. Well, that database will not  
21 contain your emails, however; isn't that correct?

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22           A.     No. I said databases which are  
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1     supposed to contain those documents. So my  
2     understanding is there would be some database or  
3     some kind of backup system which would contain my  
4     emails.

5           Q.     So in order to find your emails that  
6     may be relevant to this case, we should look at a  
7     backup system?

8           A.     I would not be the right person to  
9     answer that question.

10          Q.     Do you have an understanding as to  
11     whether that's ever been done, someone looked for  
12     your emails on a backup system?

[95:16] - [95:17]       12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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16           THE WITNESS: Yeah, I think my  
17     conversations with my attorney are privileged.

[96:5] - [96:11]       12/5/2006 Jain, Vipul [ITC]

## • Jain Selection

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5           Q.     Okay. Would you have in your office,  
6     which includes your desk and file cabinets, any  
7     paper documents that may be relevant to MPSM or  
8     CESM?

9           A.     Most likely not.

10          Q.     Have you ever searched for them?

11          A.     I have not searched.

## EXHIBIT 2



"Kakarla, Vamsi"  
<vamsi.kakarla@finnegan.com>  
05/01/2007 09:08 PM

To <derek.walter@weil.com>  
cc <jessica.davis@weil.com>, <Sonal.Mehta@weil.com>, <edward.reines@weil.com>, <matt.powers@weil.com>  
Subject RE: Jain video

Derek:

We will not play the video of Jain, Sastry, or Alles.

Thanks, Vamsi

**From:** derek.walter@weil.com [mailto:derek.walter@weil.com]  
**Sent:** Tuesday, May 01, 2007 11:48 PM  
**To:** Kakarla, Vamsi  
**Cc:** Telcordia\_Attorneys@weil.com  
**Subject:** Jain video

Vamsi:

We understand that Telcordia intends to play video of the Vipul Jain deposition tomorrow. Please note that we will raise our 401-403 objections to the testimony at 83:15-86:10, 93:9-13, 94:1-9, 94:20-95:17, and 96:5-11 with Judge Sleet at 8:30 A.M.

Thanks,

Derek Walter  
Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065  
(650) 802-3934  
(650) 802-3100

< END >

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## EXHIBIT 3

**THE FEDERAL CIRCUIT BAR ASSOCIATION**

**MODEL PATENT JURY INSTRUCTIONS**

Committee

**Matthew D. Powers, Chair**  
**Linda E. Alcorn**  
**S. Calvin Capshaw**  
**John P. Donohue**  
**David R. Todd**  
**Maureen Toohey**

***B.3. Infringement*****3.8 WILLFUL INFRINGEMENT**

[This instruction should be given only if willfulness is in issue.]

In this case, [patent holder] argues both that [alleged infringer] infringed and that [alleged infringer] infringed willfully. Even if you have decided that [accused infringer] has infringed, you must go on and address the additional issue of whether or not this infringement was willful. Willfulness requires you to determine [alleged infringer]'s state of mind. If [alleged infringer] had actual notice of [patent holder]'s rights, then [alleged infringer] had a duty to respect those rights.

To prove willful infringement, [patent holder] must establish that [alleged infringer] willfully infringed by clear and convincing evidence. That is [patent holder] must prove willfulness in such a way that you have been left with a clear conviction that the infringement was willful.

Specifically, [patent holder] must show, by clear and convincing evidence that:

- (1) [Alleged infringer] was aware of the [ ] patent; and
- (2) [Alleged infringer] engaged in the accused infringing activities without a reasonable basis for believing, either: (1) that [alleged infringer]'s [product] [method] did not infringe the [ ] patent; or (2) that the [ ] patent was invalid[; or that the [...] patent was unenforceable].

In deciding whether or not [alleged infringer] committed willful infringement, you must consider all of the facts, which include but are not limited to:

- (1) Whether or not [alleged infringer] intentionally copied a product of [patent holder] that is covered by the [ ] patent;
- (2) Whether or not [alleged infringer], when it learned of [patent holder]'s patent protection, investigated the scope of the patent and formed a good-faith belief that the patent was invalid [or unenforceable] or that it was not infringed before [alleged infringer] started or continued any possible infringing activity;
- (3) Whether or not [alleged infringer] reasonably believed that it had a substantial defense to infringement and reasonably believed that the defense would be successful if litigated;
- (4) Whether or not [alleged infringer] made a good faith effort to avoid infringing the patent, for example [alleged infringer] took remedial action upon learning of the patent by ceasing infringing activity or attempting to design around the patent;
- (5) Whether or not [alleged infringer] tried to cover up its infringement; and

- (6) [Give this instruction only if [alleged infringer] relies upon an opinion of counsel as a defense to an allegation of willful infringement:

Whether or not [alleged infringer] relied on a legal opinion that appeared to it to be well-supported and believable and that advised [alleged infringer] (1) that the [product] [method] did not infringe the [ ] patent or (2) that the [ ] patent was invalid [or unenforceable].]

In assessing these various factors and deciding whether or not [accused infringer] willfully infringed the [ ] patent, you need not find that all of the factors are present. In addition, no one or more of these factors are determinative. Rather, you must decide, based on the evidence that is presented to you, whether you have a clear conviction that the alleged infringement was willful.

Authorities

35 U.S.C. § 284; *Knorr-Bremse v. Dana Corp.*, 383 F.3d 1337 (Fed. Cir. 2004); *Crystal Semiconductor Corp. v. Tritech Microelectronics Int'l, Inc.*, 246 F.3d 1336, 1346 (Fed. Cir. 2001); *WMS Gaming Inc. v. Int'l Game Tech.*, 184 F.3d 1339, 1354 (Fed. Cir. 1999); *Read Corp. v. Portec, Inc.*, 970 F.2d 816 (Fed. Cir. 1992); *Gustafson, Inc. v. Intersystems Indus. Prods., Inc.*, 897 F.2d 508, 510 (Fed. Cir. 1990); *Underwater Devices, Inc. v. Morrison-Knudsen Co.*, 717 F.2d 1380, 1389 (Fed. Cir. 1983).